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# תורה שבעל פה

## IS THE ORAL LAW OF DIVINE ORIGIN AND THEREFORE BINDING UPON THE JEWS ?

By one of themselves.

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מתוך הויכוח יתברר האמת

“ By discussion truth is elicited.”—*Rabbinical Proverb.*

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## IS THE ORAL LAW OF DIVINE ORIGIN, AND THEREFORE BINDING UPON THE JEWS?

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THE now again agitated question of the Divinity of the Oral Law, has impelled the writer of this treatise, to reflections and researches, the fruits of which he herewith lays before the public. This step he takes, animated by the desire to contribute in throwing some light upon a subject, which, although much canvassed, appears to be very generally misunderstood. He uses the term, "again agitated," because, it is well known that the objections advanced against the Oral Law, are not new, having been raised centuries ago, as they are still maintained, by the sect called Karaites. It scarcely needs to be observed, that these objections have not remained without reply from the advocates of the divine character of the Oral Law. The controversy having been so frequently and so skilfully conducted on both sides, it can scarcely be expected that any dissertation, at the present day, can open new ground, or bring to bear any new light on the subject; all that can be done, is, to collect the various arguments, and present them as a connected and logical whole.

It would not have been difficult for the author to parade numerous, brilliant, and learned quotations; but having proposed to himself, rather to be lucid than dazzling, he has deemed it best not to assume so glittering a dress.

For the proper elucidation of the subject, it is scarcely possible to overlook two important questions, which, though of a collateral character, are, nevertheless, essential to the investigation. These questions are—Does an Oral Law exist? is it contained in the Talmud? and have Talmud and Rabbinism really exercised so injurious an effect on Jews and Judaism, as some maintain?

It was an excellent maxim of Mendelssohn, never to enter upon a discussion, without having previously settled the precise signification of terms, the notions to be conveyed by which, form the hinge upon which the argument turns. In accordance with that maxim, the following definitions of terms employed in this treatise are presented.

The Totality of the Revelation which the Almighty vouchsafed to Israel, is called Law, **תורה**. But every particular of the Revelation was not originally written down, the portion which was so, and which is contained in the Bible, **כתבי קדש** Holy Writ—is called **תורה שבכתב**, law that is in writing—Written Law. Another portion of Revelation, said to have been transmitted by word of mouth from generation to generation, until it also became settled in writing (in the Talmud), is called **תורה שבעל פה**, law which is in, or through the mouth—Oral Law. The doctrine of the divinity of the Oral Law is, therefore, founded upon its claim to the same origin as that of the Written Law, that is, the expressed will of God.

The objections to the divine character of the Oral Law, may be comprised under the four following heads:—

1st, That there is no occasion for an Oral Law at all, the Written Law being perfect in itself, and not requiring any further elucidation (Ps. xix. 8)—

### **תורת יהוה תמימה :**

*The Law of the LORD is perfect ;*

and that, if the want of precision and distinctness be a defect in any code of human laws, such a want would be a still greater defect in a code, having the Source of Wisdom for its origin.

2nd, That were even the necessity for supplementary enactments, in addition to the Written Law, conceded to exist, the Talmud could not furnish such, for the following reasons: *First*, as regards internal evidence:—that a book which teems with so many absurdities, and which betrays such puerile credulity, is unworthy of any historical credit soever;—that a book which contains so many direct contradictions—in which there are found, in comparison with the whole, so few points on which the opinions are in accordance,—and in which the explanations betray so gross an ignorance of all exegetical and grammatical rules;—that such a book cannot proceed from the Fountain of Truth and Wisdom. *Secondly*, as regards external evidence:—that no evidence is admissible which an individual gives concerning himself, the more especially, when that evidence is in his own favour; and that as the Talmudists do not produce, and cannot produce, any other evidence than their own for the divine character of their doctrines, there is sufficient reason for the rejection of that evidence.

3rd, That not only do the Scriptures contain no allusion to an Oral Law, but, on the contrary, they expressly prohibit the admission of any law, other than that laid down in the Pentateuch, (Deut. iv. 2 and xii. 32)—

לא תספו על-הדבר אשר אנכי מצוה אתכם ולא תגרעו  
ממנו לשמר את-מצות יהוה אלהיכם אשר אנכי  
מצוה אתכם :

Ye shall not add unto the word which I command you, neither shall ye diminish ought from it, that ye may keep the commandments of the LORD your God which I command you.

את כל-הדבר אשר אנכי מצוה אתכם אתו תשמרו  
לעשות לא-תסף עליו ולא תגרע ממנו :

What thing soever I command you, observe to do it; thou shalt not add thereto, nor diminish from it.

4th, That the recognition of the Talmud as authority cannot be allowed, even on the plea of an influence beneficial to Judaism; because it is the Talmudical precepts which have degraded Jews and Judaism so much, and which have done, and still do

mischief to the Jews, in having created, and in still maintaining, these prejudices on the part of Christians towards them, the sad effects of which are still so deeply felt.

To the above *objections*, the defenders of the Oral Law advance the following replies:—

*Objection 1.* “That there is no occasion for an Oral Law at all, the Written Law being perfect in itself, and not requiring any further elucidation (Ps. xix. 8)—

### תורת יהוה תמימה :

The Law of the LORD *is perfect* ;

and that, if the want of precision and distinctness be a defect in any code of human laws, such a want would be a still greater defect in a code, having the Source of Wisdom for its origin.”

Let us grant at once, that a code of laws emanating from the Fountain of all Wisdom, must bear the stamp of the utmost perfection of which the work is capable.—And this very concession proves the necessity of an Oral Law,—Thus, at the time when the law was given to Israel, that nation had attained a stated degree of civilization, possessed a stated constitution, a stated stock of ideas, spoke a stated language, was located on a stated spot, with stated neighbouring and other influences, all more or less ascertained.—Now, the Laws given to a people so circumstanced must, in order to be available and intelligible to them, have been properly adapted to their then existing state, else the aim and purpose of those laws would have been entirely lost. But circumstances like those above stated, do not and cannot remain always the same, as was specially and solemnly predicted of the identical circumstances under review (see Deut. xxxi. 16—30).

This was the prediction of the Lawgiver himself: hence it follows, that had the laws provided merely for certain given cases and then existing circumstances, and nevertheless declared those laws to be unalterable and eternal, such an incompatibility of doctrines would have proved any thing but “*perfection*” because it would be the enacting of laws, having

no reference at all to cases and circumstances which are nevertheless to be regulated by them. No unprejudiced reader of the Bible can fail to perceive, that the greater portion of its enactments do not refer to our present position and relations: this would prove it very imperfect, were it possible that laws emanating from the Fountain of Wisdom, could be imperfect. We are therefore impelled to the conclusion, that there must exist supplementary enactments, for the completion of what would else not be *perfect* but *deficient*. Hence it is essential, that there be some other law, extraneous and additional to the Written one, but of the same origin and authority. Such is the Oral Law; and, of those two combined, could the Psalmist alone say "The law of the Lord is perfect." It could scarcely be imagined that the supply of these *complementary enactments* might be left to man, as not necessarily requiring to be divine:—because the admission, that *necessary* additions or modifications could be left to be supplied by man, must prove that the Law without those *necessary* sections, cannot be *perfect*.

The above considerations must satisfy us, *a priori*, that the Written law alone cannot be throughout intelligible to us Jews of the present day. That this is really the fact may be proved by the following references.—

We will at once pass over the apparent contradictions found even in the merely historical portions of scripture; and these are not few; our purpose being with the doctrinal portions. God said unto Moses (Exod. xii. 2)

החדש הזה לכם ראש חדשים ראשון הוא לכם לחדש השנה ;

This month shall be unto you the beginning of months: it shall be the first month of the year to you.

This special appointment of the first month presupposes the existence of some fixed method of reckoning the year among the Israelites: a method which they must either have possessed previous to this appointment, or it must have been imparted to them simultaneously with it. Now what was this system? was



it based on the solar or the lunar year? Is the year of which Moses speaks the Egyptian or the Chaldean?—It cannot be said, “that this method of reckoning the year, is a matter of indifference, so long as the given month of whichever system the Israelites might choose to follow, should be regarded as the first;” because, almost all the sacred festivals have, so far as the period of their observance is concerned, a direct dependance upon that *first month*; such festivals being principally associated with rural occupations, and of course connected with particular seasons.—Thus was חג השבועות *Feast of Weeks*, (Levit. xxiii. 15—18) appointed in connexion with the wheat harvest: and thus was the Feast of Tabernacles, called חג האסיף *the Feast of In-gathering* (Exod. xxiii. 16. Levit. xxiii. 39); because at this festival the various fruits of the field were already gathered into the storehouses. From these appointments we deduce evidence, that a certain method of reckoning the year existed among the Jews at the period at which these commands were given, and that this method, whatever it was, became thereby recognised, and made obligatory for the future. Hence an exact knowledge of this method, as there observed, is equally indispensable to the Jew of the present day, as of that period; because it is commanded to keep the festivals at *their due time* (Levit. xxiii. 4). Notwithstanding all this, the scriptures contain neither information nor instruction as to this method of reckoning the year: where then is the pretended clearness of that book, which is altogether silent upon this subject, the right understanding of which is indispensable to the due observance of institutions so essential to Judaism as the Festivals?

There is scarcely any law so frequently enjoined, and that too under penalties so severe, as the observance of the Sabbath (Exod. xxxi.—14);

מחלליה מות יומת :

Every one that defileth it shall surely be put to death.

And still, we nowhere find a statement of what constitutes its defilement or profanation. It cannot be maintained, that

the definition of a profanation was left to the magistrates; for this would imply a gross confusion of the legislative with the executive functions. While the power of executing the law was vested in the magistrate, that of enacting, as also of interpreting, could only be exercised by the Legislator—the Almighty himself. And can there be a more palpable proof of the imperfection, nay, impracticability, of any code of laws than this—that certain acts are denounced as crimes, under severe penalties, but in terms so general, that a vast field is opened for any accusations which ignorance, personal enmity, or peculiar notions, can bring to bear. Much less can it be supposed, that the requirements which constituted the observance of the Sabbath, and the acts which were a profanation of it, could be left to every observer's private feeling and judgment, since we find it recorded, that a man, who, according to our notions, would appear to have committed but a very slight infraction of duty, (no more is conveyed by **מקשש עצים** "*gathering up sticks*" Numb. xv. 32, 33), was by command of God put to death. Moreover, instances are to be met with in the Scriptures, which prove that particulars of what constituted observance of the Sabbath, were familiarly known in those times; but we search the Pentateuch for them in vain. Moses reproached, with a violation of the Sabbath, those Israelites who went on that day to collect the manna, saying (Exod. xvi. 29, 30)—

**שבו איש תחתיו אל-יצא איש ממקומו ביום השביעי  
וישבתי העם ביום השבעי :**

Abide ye every man in his place, let no man go out of his place on the seventh day. So the people rested on the seventh day.

If this command is to be construed literally, the Israelites were not permitted to leave their abodes on the Sabbath at all; and if it were so, wherefore were not the men who found the gatherer of wood, subjected to the same punishment as he was? It cannot be said, that this man was seen by the others from their respective abodes, because the text has **וימצאו** (and they found), and not **ויראו** (and they saw): nor can it

be supposed that the persons who so found the culprit, might have been punished too, because the Pentateuch would, in that case, have mentioned so important an incident. If they were not punished, then they were not criminal, and the above command cannot be construed literally; and if not a literal, what other interpretation may be put on that command?

Jeremiah prohibits the Israelites from carrying a burden on the Sabbath, in the following terms (Jer. xvii. 22):—

וְלֹא-תוֹצִיאוּ מִשָּׂא מִבֵּיתְכֶם בְּיוֹם הַשַּׁבָּת וְכָל-מְלֶאכֶה  
לֹא תַעֲשׂוּ וְקִדַּשְׁתֶּם אֶת-יוֹם הַשַּׁבָּת כְּאֲשֶׁר צִוִּיתִי  
אֶת-אֲבוֹתֵיכֶם :

Neither carry forth a burden out of your houses on the sabbath day, neither do ye any work, but hallow ye the sabbath day, as I commanded your fathers.

Now, where in the Pentateuch is it prohibited to carry a burden on the Sabbath day? It may, perhaps, be objected, that the words "*as I commanded your fathers*," do not refer to the carrying of burdens specially, but to the general expression, "*do ye not any work, but hallow the Sabbath*;" which expression comprehends the prohibition to carry burdens. If that be established, will it not demonstrate the truth of what was advanced,—that particulars of what constituted violation of the Sabbath, were then known, although they are nowhere mentioned in the Pentateuch.

In Nehem. x. 30—32, we read—

מִחֻזְקִים עַל-אֲחֵיהֶם אֲדִירֵיהֶם וּבָאִים בְּאֵלֶּה וּבִשְׁבוּעָה  
לָלֶכֶת בְּתוֹרַת הָאֱלֹהִים אֲשֶׁר נָתַן בְּיַד מֹשֶׁה  
עַבְד־הָאֱלֹהִים וּלְשֹׁמֵר וּלְעֹשֶׂה אֶת-כָּל-מִצְוֹת יְהוָה  
אֲדַנִּינוּ וּמִשְׁפָּטָיו וְחֻקָּיו : וְאֲשֶׁר לֹא-נָתַן בְּנִתְּנוֹ לְעַמִּי  
הָאָרֶץ וְאֶת-בְּנֵיהֶם לֹא נָקָה לְבַנֵּינוּ : וְעַמִּי הָאָרֶץ  
הַמְּבִיאִים אֶת-הַמִּקְחֹת וְכָל-שֹׁבֵר בְּיוֹם הַשַּׁבָּת לְמַכּוֹר  
לֹא-נָקָה מֵהֶם בַּשַּׁבָּת וּבְיוֹם קָדֵשׁ וְנִשְׁשׂ אֶת-הַשֶּׁנֶּה  
הַשְּׁבִיעִית וּמִשָּׂא כְלִיד :

They clave to their brethren, their nobles, and entered into a curse, and into an oath, to walk in God's law, which was given by Moses the servant of God, and to observe and do all the commandments of the Lord our Lord, and his judgments and his statutes; and that we would not give

our daughters unto the people of the land, nor take their daughters for our sons : and if the people of the land bring ware or any victuals on the sabbath day to sell, that we would not buy it of them on the sabbath or on the holy day : and that we would leave the seventh year, and the exaction of every debt.

Here is the prohibition of *buying on Sabbath* (not contained in the Pentateuch), enumerated in the same category as others which are so contained : the inference, therefore, is inevitable, that the prohibition of *buying on Sabbath* proceeds, likewise, immediately from the Almighty. Now, where in the Pentateuch is the prohibition to be met with? Again, the very untenable objection might be raised, that the prohibition is implied in the more general one, against violating the Sabbath; but this would again demonstrate the then acquaintance with particular methods of desecrating the Sabbath, not mentioned in the Pentateuch.

In Exodus xxi. 24, we read (repeated also in Levit. xxiv. 19, 20, and in Deut. xix. 21),—

עֵין תַּחַת עֵין שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל  
כֹּוֹיָה תַּחַת כֹּוֹיָה פֶּצַע תַּחַת פֶּצַע חֲבוּרָה תַּחַת  
חֲבוּרָה ;

Eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe.

This law appears so clear, that its signification can admit of no doubt: yet we read in the same chapter (ver. 18, 19)—

וּבִיָּרִיבֵי אֲנָשִׁים וְהִכָּה אִישׁ אֶת־רֵעֵהוּ בֶאֱבֶן אוֹ בִּאֲגָרֶף  
וְלֹא יָמוּת וְנָפַל לְמִשְׁכָּב : אִם־יָקֹום וְהִתְהַלֵּךְ בַּחוּץ  
עַל־מִשְׁעַנְתּוֹ וְנָקָה הַמִּכָּה רַק שְׁבֹתוֹ יִתֵּן וּרְפָא יִרְפָּא :

And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keepeth his bed : if he rise again, and walk abroad upon his staff, then shall he that smote him be quit : only he shall pay for the loss of his time, and shall cause him to be thoroughly healed.

It must be obvious to the meanest capacity, that if one man smite another so violently that the sufferer be obliged to keep his bed, the injury inflicted must have been to injure a limb, or at least a *stroke* must have been given. If this case were adjudged by the law first quoted, the aggressor's punish-

ment must be a retaliatory injury to *his* limb, or a stroke as the case may be: but, according to the law last quoted, the due punishment consists in the obligation to make pecuniary recompense, and to get the sufferer healed. Is there not a palpable contradiction between these laws, unless there exist some means of reconciling them?

ואם שור נגח הוא מתמל שלשם והועד בבעליו ולא  
ישמרנו והמית איש או אשה השור יסקל וגם-  
בעליו יומת : אם-כפר יושט עליו ונתן פדיו נפשו ככל  
אשר-יושט עליו :

But if the ox were wont to push with his horn in time past, and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman; the ox shall be stoned, and his owner also shall be put death. If there be laid on him a sum of money, then he shall give for the ransom of his life whatsoever is laid upon him. (Ex. xxi. 29, 30.)

According to the tenor of these verses, it was left entirely at the option of the judges, whether the owner of the ox should suffer death or pay a ransom. But can it be supposed, that by a mere omission to lay down a definite rule, a question of such importance as whether a crime is capital or not, was abandoned to the caprice of a judge? Would not a law which might so be rendered at discretion, open the door to bribery and corruption, by conferring on one man an absolute power over the life of his fellow? Would not this be to destroy the claim made by Moses for the legislative system transmitted through him (Deut. iv. 6).

ושמרתם ועשיתם כי הוא חכמתכם ובינתכם לעיני  
העמים אשר ישמעון את כל-החקים האלה  
ואמרו רק עם-חכם ונבון הגוי הגדול הזה :

Keep therefore and do them [the laws]; for this is your wisdom and your understanding in the sight of the nations, which shall hear all these statutes, and say, Surely this great nation is a wise and understanding people.

How can such a boast be justified, if these laws are so unsafe and so capable of diverse constructions?

ומן-המקדש לא יצא ולא יחלל את מקדש אלהיו כי  
נזר שמן משחת אלהיו עליו אני יהוה :

Neither shall he go out of the sanctuary, nor profane the sanctuary of his God; for the crown of the anointing oil of his God is upon him: I am the LORD. (Lev. xxi. 12.)

By the literal construction of this law, the High priest would have been confined to the sanctuary: could such a requirement be compatible with his common wants and obligations, especially with his judicial duties (Deut. xvii. 9), which, in some cases, must have demanded general and searching investigations, altogether impossible to be made in the sanctuary? We find, indeed, that pious High Priests, under pious kings, did not scruple to quit the sanctuary, without appearing to have incurred censure thereby (1 Kings i. 32, 38).

לֹא-יָבֹא עַמּוֹנִי וּמֹאבִי בִקְהֵל יְהוָה גַּם דּוֹר עֲשִׂירִי לֹא-  
יָבֹא לָהֶם בִּקְהֵל יְהוָה עַד-עוֹלָם :

An Ammonite or Moabite shall not enter into the congregation of the Lord; even to their tenth generation shall they not enter into the congregation of the Lord for ever.

The common-sense construction of this law, as it stands, includes both males and females: and if members of these nations were excluded from the community generally, inter-marriage with them must have been indeed a grave crime. Notwithstanding this, we find that the pious Boaz married the *Moabite* Ruth; indeed, that he became thereby the ancestor of *David*, of whom the *Messiah* is to be a descendant. If we would not declare this marriage of Boaz to have been a crime, and that the Almighty rewarded the criminal by permitting him to become the progenitor of him upon whom the hope of Israel rests, then we are compelled to admit that Boaz understood the law, in some other sense; and with such an admission, how can it be said that the law is *clear* and *perfect*?

In Lev. xi. 3—43, and in Deut. xiv. 4—21, are given enumerations of animals unlawful to be eaten by Israelites, together with signs by which the clean animals might be distinguished from the unclean. As these signs are given for quadrupeds, fishes, and insects, it would be but reasonable to

expect, in the analogous case of birds, the prescription of signs also. It would be difficult to assume, that no signs were given, whereby *clean birds* might be recognised, since the Law expressly says—"Every *clean* bird ye may eat;" whence, it is reasonable to imply, that there then existed no ignorance of what these birds were. Again, the identical expression, "every *clean* bird," occurs in Scripture, with reference to a period before that of the Mosaic Law. Noah brought as an offering after the flood, "*from every clean bird*" (Gen. viii. 20). This expression טָהוֹר, (*clean*) can have no connexion here with what is lawful or otherwise for food; since not only is it after this offering that permission is first given him to eat animal food, but that permission is general, and no species soever is prohibited, "*every moving thing that liveth shall be meat for you*" (Gen. ix. 3). Hence, the conclusion is inevitable, that טָהוֹר as here employed, is not synonymous with "lawful;" and that its exact signification, well known in ancient times, is still needful for our present guidance: but, where is our guidance, when the written law does not contain the requisite instructions or definitions? and how can that law in such case be all-sufficient?

דבר אל-בני ישראל לאמר כל-חלב שור וכשב ועז  
לא תאכלו :

Speak unto the children of Israel, saying, Ye shall eat no manner of fat, of ox, or of sheep, or of goat. (Lev. vii. 23.)

חקת עולם לדדתיכם בכל מושבתיכם כל-חלב וכל-דם  
לא תאכלו :

It shall be a perpetual statute for your generations throughout all your dwellings, that ye eat neither fat nor blood. (Lev. iii. 17.)

If this command is to be construed literally, how can an Israelite, with propriety, eat food from these animals; well known as it is, how extensively the fat is distributed, and how intermixed it is with layers of flesh forming the muscles and other portions which comprise the edible part of the animal, and from which it is scarcely possible to separate it? If it cannot be construed literally, what signification shall it bear? It cannot be regarded as a question of minor importance,

looking, on the one hand, upon the expressive terms in which it is forbidden, and on the other, upon the circumstance that our animal food almost exclusively consists of these animals; thus, the literal prohibition would nearly operate against animal food altogether. Some more restrictive definition is therefore inevitable; and where is its warrant in the written Law?

לֹא תִקְפוּ פֶּאת רִאשְׁכֶּם וְלֹא תִשְׁחִית אֶת פֶּאת זָקֶנְךָ :

Ye shall not round the corners of your heads, neither shalt thou mar the corners of thy beard. (Lev. xix. 27.)

This prohibition is couched in terms so vague, that the mere reader looks in vain for guidance as to what constitutes a marred beard, or by what act it can be marred. How can a code of laws be deemed all-sufficient, that employs terms which, though their meaning in the abstract is ascertained, convey no clear notions from which a rule of conduct can be evolved?

It would not be difficult to multiply such instances, all proving the insufficiency of the Written Law; but enough has been adduced to shew, that this law, by itself, presents imperfections—such as inconsistencies, contradictions, omissions and obscurities; and that these do not relate to precepts of mere secondary importance, nor to practices from which the Jews are absolved by any existing circumstances, but to principles of such vital importance to Judaism, that it must be admitted on all hands, that the very existence of the system is involved in the consideration, whether those imperfections can be supplied, and those inconsistencies explained.

The Law, which is “perfect,” requires that these should be done; and as the means are not supplied by that which is written—they must necessarily exist elsewhere; therefore, those means which are so indispensable, and which are, nevertheless, wanting in the Written Law, must be looked for in some supplement to it.

*Objection 2.* “That were even the necessity for supplementary enactments, in addition to the Written Law, conceded to exist,



the Talmud could not furnish such, for the following reasons: *First*, as regards internal evidence :—that a book which teems with so many absurdities, and which betrays such puerile credulity, is unworthy of any historical credit soever ;—that a book which contains so many direct contradictions,—in which there are found, on comparison with the whole, so few points on which the opinions are in accordance,—and in which the explanations betray so gross an ignorance of all exegetical and grammatical rules ;—that such a book cannot proceed from the Fountain of Truth and Wisdom. *Secondly*, as regards external evidence :—that no evidence is admissible which an individual gives concerning himself, the more especially, when that evidence is in his own favour ; and that as the Talmudists do not produce, and cannot produce any other evidence than their own for the divine character of their doctrines, there is sufficient reason for the rejection of that evidence.”

Having proved the necessity for a supplement complementary to, and explanatory of, the Written Law, it is self-evident, that the Almighty Source of all Perfection must have supplied an essential, without which, His Revelation would have been insufficient. Its design was the guidance of His people, and they could not be guided by that which they could not understand, and which would not be adaptable to circumstances already anticipated. Where then are these supplementary rules and explanations to be sought, except within the pale of Judaism? Where, but in that repertory which, next to the Bible, contains the most ancient records and productions of our people, which takes up the thread where the last of those inspired, **אנשי כנסת הגדולה** dropped it, and continued it uninterruptedly to modern times? Where else, but in that work which contains not unfrequently, even the minutest record of the most pious men of which Judaism can boast,—of men who, in sublimity of maxims, in comprehensiveness of views and in general scientific attainments, have not been inferior to any of the sages or learned men, of the different ages in which they lived; of men, who lived in times when the Hebrew, as a living language, was not extinct, when they could, nay must, have better known

the meaning of the scriptures than we ;—of men, who, having made the study of the law the vocation of their lives, were invested by the confidence of their people with official sway, when the land still was theirs ;—and not like fanatic anchorites, secluded from the world which they would seek to regulate, and devising laws the weight of which pressed not upon them, and the practicability of which they could not appreciate—but of men, who mixed with their fellows, who were able to reason calmly and execute promptly, and who from deep rooted convictions of the truth of what they taught, did not hesitate to demonstrate it by example, and even to seal it with their blood. Where else then, we say, where else, we demand—can we hope to find these supplemental enactments, called (in contradistinction to the *Written*) the *Oral Law*, but in that stupendous monument of erudition and piety bequeathed us by such men,—the heritage transmitted to us by our fathers,—the Talmud ?

Provided it be granted that the Oral Law can only be discovered in the Talmud, it would even be possible to concede all the other charges made against that work, without derogating from the character of the Oral Law therein contained ; for it is to us a matter of little import, indeed a matter scarcely more than accidental, that the same collection which is the vehicle of Divine enactments, is at the same time the depository of things which have no pretensions to a sacred character. The accidental association of a base metal, cannot detract from the genuineness of the diamond which is set in it.—We use the term *Collection* in speaking of the Talmud ; because it is not a book written by any single author, but rather a whole library of books, containing, in addition to the Oral Law, the literary productions of numerous Jewish Doctors, spread over different countries, and subjected to different influences, during the period of about a thousand years. These Doctors enjoyed a full scope for the expression of their respective individual opinions, at least on all points not essential constituents of the Oral Law. Look then at the vast field of subjects upon which they wrote ; and can it be wondered, that the recorded opinions of men so very differently circumstanced, should occasionally appear inconsis-

tent, conflicting, or even altogether false, in proportion to the opportunities for correct judgment enjoyed by the authors of such opinions respectively.

We have said, that *provided* it were conceded that such charges were well founded; but we by no means made the admission that they *were* so. For, in the first place, how inconsiderable for their number, is the quantity of unfounded and, so styled, absurd opinions contained in the Talmud, as compared with its mass of sublime and moral maxims, religious truths, philosophical views, historical records, antiquarian and geographical elucidations, and natural, philosophical, as well as mathematical allusions, and sound legal discussions. These form a considerable part of the Talmud, and are mines of precious metal, which, far from being exhausted, have scarcely yet been opened out.

In the second place, a great many of those, so styled, absurdities, seem so to us merely because we are not used to the Oriental style and diction in which they are clothed. Our attention is so distracted by the grotesque dress of the objects so presented to us, that we fail to appreciate the objects themselves. We look upon these statements with the same eyes with which the savages must have gazed at Europeans riding on horseback: not having yet seen such before, the rider and horse were regarded as the same creature, until a closer examination exposed the mistake. Moreover, a great many of these statements appear absurd, solely because we are not duly prepared to appreciate them; for those statements express merely the results of some reasoning, or the conclusions drawn from premises not there laid down. And this absurdity disappears, nay, is not unfrequently succeeded by our highest admiration for the profundity developed, when the premises are discovered, even though, according to our present scientific advancement, these premises should appear erroneous.\*

\* Maimonides, among the older Jewish theologians, and Herz Wessely among those of modern times, have thrown much light on this view of the case.

In the third place, there are many statements which appear absurd, only when taken from their context, and set forth isolatedly. If this be warrantable, then it would be possible to cast ridicule upon every one, however his virtues or attainments may have placed him above us, and to turn into derision any system, however sublime its principles. None will question the veneration due to the ancient Greeks, to whom we are indebted for our germ of sciences, which are now so flourishing. We especially admire the sublime genius of Anaxagoras, as well as that of Socrates: the former of these philosophers raised himself to the knowledge of a single Supreme Being: the latter did not hesitate to seal with his death, the truths which he taught. Now, suppose that a person incapable of reading the original Greek, should enquire concerning these men, and receive the following account:—

Anaxagoras was a man who seriously maintained that the earth was a flat plain, and that the stars are stones torn from the earth by whirlwinds, glowing from the heat of the sun in whose vicinity they are placed. Socrates was a man who gravely contended that he had a familiar spirit, through whom occult things were communicated to him.—Though, in giving this information, the person consulted would not have falsified any thing, he would by no means have imparted a true conception of what these philosophers were. However, this is the precise line which has been followed by almost every antagonist of the Talmud. As to the credulity of the Talmudists, we might concede even that, without derogating from the veracity of the Oral law, for reasons similar to those already employed; and this charge may be refuted in precisely the same manner as that of the Talmud's absurdity. How many things reported by ancient historians and travellers, have been thought false through centuries, until more favorable circumstances and better investigations have proved them true! But the Talmudic writers are charged with a gross ignorance of all grammatical and exegetical rules. So far as grammar is concerned, it can scarcely be needful to refute this charge, for,

though often repeated, it yet remains to be proved; and as for their exegetical rules, it will be best to submit them to an examination.

The following are the exegetical rules acknowledged by all Talmudists. They are to be found in the *Mechilta of Torat Cohanim*, known under the title of the 13 *Midoth* of R. Ishmael.

### מקל וחומר :

1. The comparison of minor and major.

### ומגזרה שוה :

2. Decisions deduced from the agreement, or equality of texts.

### מבנין אב מכתוב אחד ומבנין אב משני כתובים :

3. From a principle or axiom contained in one verse, or deduced from two verses.

### מכלל ופרט :

4. A general rule modified by a succeeding particular rule.

### ומפרט וכלל :

5. From a particular text guided by a succeeding general one.

### כלל ופרט וכלל אי אתה דן אלא כעין הפרט :

6. Precepts delivered first in general, and then in particular, and again in general terms, must only be determined according to the principle of the particular specification.

### מכלל שהוא צריך לפרט ומפרט שהוא צריך לכלל :

7. From a general principle that requires a particular or specific text to explain it; and from a particular text requiring a general one.

### כל-דבר שהיה בכלל ויצא מן-הכלל ללמד לא ללמד על-עצמו יצא אלא ללמד על-הכלל כלו יצא :

8. Whatever, having been included in a general principle, is brought out as a particular exemption, and does not guide a rule for itself alone, but affects the general principle also.

### כל-דבר שהיה בכלל ויצא לטעון טוען אחד שהוא כענינו יצא להקל ולא להחמיר :

9. Whatever, being included in a general proposition, is brought forward to state a particular instance on the subject, tends to alleviate and not to aggravate the determination.

כל-דבר שהיה בכלל ויצא למען טוען אחר שלא כענינו  
יצא להקל ולהחמיר :

10. Whatever, being included in a general proposition, is brought forward to state a case differing from the subject, serves both to alleviate and to aggravate.

כל-דבר שהיה בכלל ויצא לדון בדבר החדש אי אתה  
יכול להחזירו לכללו עד-שיחזירנו הכתוב  
לכללו בפרוש :

11. Every thing included in a general description, and afterwards brought out as an exception, and subjected to a new determination, cannot be restored to its original general principle, unless expressly restored by the text.

דבר הלמד מענינו ודבר הלמד מסופו :

12. Whatever is deduced from the subject itself; or deduced from the close of the text.

וכן שני כתובים המכחישים זה את-זה עד-שיבוא  
הכתוב השלישי ויכריע ביניהם :

13. When two texts contradict each other, a third text will be found to reconcile them.

It seems expedient to premise some explanatory remarks concerning these rules in general, before they are separately illustrated. These rules are by no means deduced from general logical laws, nor do they claim, with the exception of the first, a general application as exegetical rules for other books than the Scriptures. These rules are, in fact, a matter of convention between the lawgivers and the interpreters of the law, and they enable the interpreter to comprehend the true meaning of statements, which are obscure to others not so assisted; similar to the knowing how to read, is to know the convention of men of letters for the communication of their thoughts by visible signs, whereby they derive important instruction from a book which excites no idea at all in the mind of persons ignorant of this art. These rules are a species of short-hand writing, quite intelligible to the master who teaches, and to the pupil who learns, though not intended to supplant the usual

manner of writing, because introduced merely for a special purpose.

The first rule is clear in itself, and is frequently applied even in ordinary matters. It is indeed founded on a scriptural precedent (Numbers xii. 14); this therefore requires no further illustration.

The second rule may be illustrated by the following instance : —The Israelites were ordered to slaughter the Paschal lamb on the evening previous to Passover (Exodus xii. 6). The question now arises, what shall be done when the 14th day in Nisan happens on a Sabbath? a case not at all provided for in the general terms of the enactments. Slaughtering, and the other proceedings necessarily connected with it, are certainly labour, which is strictly prohibited on Sabbath. This doubt finds its solution by means of the following *Gesere shava*. We find the Israelites were enjoined to observe the Passover in its appointed season **במער** (Numbers ix. 2): and again we read concerning the daily offerings: “You shall observe to offer unto me in its due season” **במער** (Numbers xxviii. 2). This recurrence of the same word, *once* in a law indefinite in a certain point, and *again* in a law definite in this point, is not merely accidental, but serves to remind us that a tradition has been handed down to the interpreter of the law, according to which, the definite character of the one law is employed to clear up the indefinite expression of the other; and thus the question is solved by the inference, that if the daily offering was not incompatible with the Sabbath, then the Pascal lamb would also be slaughtered on that day, even if it were the 14th of Nisan. This rule has been the most misunderstood, and therefore the most abused. “What folly,” has been exclaimed, “to rest a decision upon the mere accidental recurrence of the same words; in this manner, there is no absurdity which might not be proved.” True, in this manner the grossest absurdities might be proved. But did the Talmudists ever rest a decision on a **נזרה שורה** unless they were convinced of the truth of this decision by other proofs? Did not they openly teach—

אין אדם דן ג"ש מעצמו אא"כ קבלו מרבו וגומר הל"מ  
 (פסחים ס"ו ע"א) \*

No man can rest his decision upon גזרה שוה, unless he have learnt it from his teacher, who must have received it from his teacher, and so upward to Moses from Sinai.

Can it be proved that the Talmudists employed the גזרה שוה otherwise than as a mnemonic sign to remind them of similarities; just as forgotten objects are familiarly recalled by accidental associations of sound or sense?

As an illustration of the third rule, concerning employments prohibited on the Festivals, we find in Exod. xii. 16—

אך אשר יאכל לכל־נפש הוא לבדו יעשה לכם :

Save that which every man must eat, that only may be done of you.

This enactment, though apparently merely referring to the Passover, is applied also to the other festivals, because all, being equally holy, must have equal requirements.

As an illustration of the fourth rule, we read (Levit. i. 2)—

מִן־הַבְּהֵמָה מִן־הַבֶּקָר וּמִן־הַצֹּאן תִּקְרִיבוּ אֶת־קִרְבָּנֵכֶם :

Ye shall bring an offering of beast,† even of the herd, and of the flock.

Now as the term בהמה (beast) includes both wild and domestic animals (see Deut. xiv. 4—5), the offering of any animal, a stag for instance, might have been deemed lawful; in order, however, to prevent such a mistake, the restrictive terms herd and flock have been added, which restricts the general expression beast, to beasts of the species of herds and flocks.

We find an illustration of the fifth rule in Deut. xxii. 1, 3—

לֹא־תִרְאֶה אֶת־שׁוֹר אַחִיךָ אֹן אֶת־שֵׂיו נִדְחִים . . . הַשֶּׁבַע  
 תִּשִּׁיבם לַאֲחִיךָ : וְכֵן תַּעֲשֶׂה לַחֲמֹרוֹ וְכֵן תַּעֲשֶׂה לְשִׁמְלָתוֹ  
 : וְכֵן תַּעֲשֶׂה לְכָל־אֲבֹדַת אַחִיךָ :

Thou shalt not see thy brother's ox or his sheep go astray, . . . thou shalt in any case bring them again unto thy brother. In like manner shalt thou do with his ass; and so shalt thou do with his raiment; and with all lost things of thy brother's.

\* See also Rashi's Commentary on this passage.

† בהמה is in the authorised version improperly rendered—cattle.



Here, the terms ox, sheep, ass, and raiment designate special things only, whilst the word אבדה (lost things) includes all. Now, in such a case, this rule teaches, that the special terms do not restrict the general term, which retains its original comprehensive signification, which is, "Not only must thou restore an ox, ass, sheep, or garment, but any other lost thing."

In illustration of the sixth rule, we find in Exodus xxii. 7, 8—

כִּי־יִתֵּן אִישׁ אֶל־רֵעֵהוּ כֶּסֶף אֹרְכִלִים לְשֹׁמֵר וּגְנֹב מִבֵּית  
הָאִישׁ אֲסִימָצָא הַגֹּנֵב יִשְׁלַם שְׁנַיִם : אֲסִימָצָא  
הַגֹּנֵב וְנִקְרַב בְּעַל־הַבַּיִת אֶל־הָאֱלֹהִים אֲסִימָצָא שְׁלַח יָדוֹ  
בְּמִלְאֶת רֵעֵהוּ : עַל־כָּל־דְּבַר־פֶּשַׁע עַל־שׁוֹר עַל־חֹמֹר  
: עַל־שֶׁה אֶל־שְׁלֵמָה עַל־כָּל־אֲבֵדָה :

If a man shall deliver unto his neighbour money or stuff to keep, and it be stolen out of the man's house; if the thief be found, let him pay double. If the thief be not found, then the master of the house shall be brought unto the judges, to see whether he have put his hand unto his neighbour's goods. For all manner of trespass, whether it be for ox, for ass, for sheep, for raiment, or for any manner of lost thing.

Here first occur the terms "for all manner of trespass"—this is general; then the words, "for ox, for ass, for sheep, for raiment," special; and next the expression, "for any manner of lost thing," again general. From this, the inference is drawn, that the proceedings here prescribed, only apply to cases in which the lost thing is like the things named in the special terms; that is, when they are moveable, but not when the lost goods are immoveable.

As an illustration of the seventh rule, we read in Numbers iii. 40—

וַיֹּאמֶר יְהוָה אֶל־מֹשֶׁה פַּקֵּד כָּל־בְּכֹר זָכָר לְבְנֵי יִשְׂרָאֵל  
מִבֶּן־חֹדֶשׁ וָמַעֲלָה :

And the Lord said unto Moses, Number all the firstborn of the males of the children of Israel from a month old and upward, and take the number of their names.

Here, the term *first-born* (a general one) includes both males and females, and the term *males* (a special one) excludes first-born females. Now in such a case, according to the rule in

question, the terms are regarded as explaining each other, in order to convey the meaning, that God's command was to number the first-born males only, to the utter exclusion of the first-born females—a meaning that could not have been inferred, if either of the above expressions had been used alone.

As an illustration to the eighth rule, we read (Levit xx. 2)—

אִישׁ אִישׁ מִבְּנֵי יִשְׂרָאֵל וּמִן־הַגֵּר הַגֵּר בְּיִשְׂרָאֵל אֲשֶׁר יִתֵּן  
מִזְרְעוֹ לַמֶּלֶךְ מוֹת יוֹמָת עַם הָאָרֶץ יִרְגְּמֻהוּ בָּאֲבָן :

Whosoever he be of the children of Israel, that giveth any of his seed unto Molech; he shall surely be put to death: the people of the land shall stone him with stones.

Molech being one of the idols, the worship of which is already prohibited under penalty of death, it seems superfluous to point out an idol specially, unless there is a particular design for it. Now, this particular design is to show, that as well as in one case the transgressor is condemned to be stoned, so also shall the worshipper of any idol be stoned, notwithstanding that this manner of death is merely prescribed for a man giving his seed to Molech.

In illustration of the ninth rule, we read (Exod. xxi. 12).—

מָכָה אִישׁ וּמָת מוֹת יוֹמָת :

He that smiteth a man, so that he die, shall be surely put to death.

This enactment is a general one, implying a designed as well as an undesigned manslaughter. Then we read again, in Deut. xix. 4—

זֶה דְּבַר הָרָצַח אֲשֶׁר־יָנוּס שָׁמָּה וְחֵי אִשֶּׁר יָכָה אֶת רֵעֵהוּ  
בְּבִלְי־דַעַת :

And this is the case of the slayer, which shall flee thither, that he may live: whoso killeth his neighbour ignorantly.

This enactment, not commanding to put the slayer to death, seems to be in contradiction to the former. Now in such a case, our rule teaches that the special term is to be regarded as an exception to the general one, and that a lighter punishment is

laid upon this exceptioned case. As an illustration of the tenth rule, we read (Deut. xv. 12)—

בִּימְכַר לְךָ אֶחֶיךָ הָעִבְרִי אֹן הָעִבְרִיָּה וְעִבְרֶךָ שֵׁשׁ שָׁנִים  
וּבִשְׁנָה הַשְּׁבִיעִת תִּשְׁלַחנּוּ חֲפָשִׁי מֵעִמְךָ :

And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years ; then in the seventh year thou shalt let him go free from thee.

This enactment is a general one, ordaining, that Israelite men, as well as female servants, are to be freed in the seventh year of their servitude. Now, unless the Scriptures intend to make some modification of this general law for some special case, any repetition, concerning either male or female servants, is superfluous. Yet we read (Exod. xxi. 2.), “If thou buy an Hebrew servant, six years he shall serve, and in the seventh he shall go out free for nothing;” and then (Exod. vii. 9.), “And if a man sell his daughter to be a maid-servant, she shall not go out as the men servants do. If she please not her master, who has betrothed her to himself, then shall he let her be redeemed, &c. And if he have betrothed *her* unto his son, he shall deal with her after the manner of *daughters*.”

These two last enactments must therefore modify the first in some manner. Now, according to the rule in question, the modification is the following: a female servant does not only become free, like a man-servant, in the seventh year, but she has also other chances of freedom, viz. when her master dies, or if she attain puberty during her servitude ; now this is an alleviation for her. But, on the other hand, the female servant is not allowed to go away, if her master or his son will marry her, which certainly is an aggravation.

In illustration of the eleventh rule, we read (Levit. xxii. 10)—

וּכְלִיזָר לֹא-יֵאָכֵל קֹדֶשׁ תּוֹשֵׁב כֹּהֵן וְשֹׂכֵר לֹא-יֵאָכֵל קֹדֶשׁ :  
וּכֹהֵן בִּיִּיקָנָה נֶפֶשׁ קִנְיִן כִּסְפוֹ הוּא יֵאָכֵל בּוֹ וְיֵלִיד בֵּיתוֹ  
הֵם יֵאָכְלוּ בַלְחָמוֹ :

There shall no stranger eat of an holy thing ; a sojourner of the priest or a hired servant shall not eat of the holy thing. But if the priest buy any soul with his money, he shall eat of it, and he that is born in his house : they shall eat of his meat.

From this statement, it seems evident that the daughters of the priest, single or married, were allowed to partake of the holy things, yet as it is also to be found (Levit. xxii. 12) —

**ובת־כהן כי תהיה לאיש זר הוא בתרומת הקדשים לא  
תאכל :**

If the priest's daughter also be married unto a stranger, she may not eat of an offering of the holy things.

The interpreter is justified in making the conclusion, that having been once married to a stranger, even if she become afterwards a widow, she is prohibited from eating holy things, were it not expressly stated (Levit. xxii. 13), that in case of her widowhood, she is again allowed to partake of the meat of her father.

As an illustration of the twelfth rule, we read (Ex. xvi. 29)—

**אליצא איש ממקמו ביום השביעי :**

Let no man go out of his place on the seventh day.

According to the sense of this passage, taken by itself, it would be prohibited to an Israelite to leave his place on a Sabbath Day for any reason whatever. But if we consult the context, and its connection with the preceding and following verses, it is obvious that this prohibition refers merely to the going out on Sabbath to collect manna, but does not at all affect such going out as the taking of a walk. By a similar reasoning we arrive, according to the rule in question (in Levit. xviii. 6, 7), at the conclusion, that only intermarriages with relations there pointed out, are prohibited, but not marriages with other relations.

As an illustration of the 13th rule, we read (Gen. i. 1)—

**בראשית ברא אלהים את השמים ואת הארץ :**

In the beginning God created the heaven and the earth.

This statement seems to convey that the heaven was first created, and then the earth. But then we read (Gen. ii. 4)—

**ביום עשות יהוה אלהים ארץ ושמים :**

In the day that the Lord made the earth and the heavens.

Now this uncertainty is remedied by a third statement (Isaiah xlviii. 13)—

אֶף־יְדִי יִסְדָּה אֶרֶץ וַיְמִינִי טִבְחָה שָׁמַיִם קִרָּא אֲנִי אֱלֹהִים  
יַעֲמְדוּ יַחְדָּו :

Mine hand also hath laid the foundation of the earth, and my right hand hath spanned the heavens: when I call unto them, they stand up together.

This third reconciliatory statement says, that heaven and earth have been created at the same time; and explains thus the seeming contradiction.

Supposing that these illustrations have set the Talmudic exegesis in a true light, the antagonists of the Talmud may now be asked where are those rules which they assert to be in contradiction to a sound logic to be found?—and if these cannot be shewn, with what shadow of right can the exegetical rules of the Talmud be branded with such a charge?

*Objection 3.*—That not only do the Scriptures contain no allusion to an Oral Law, but, on the contrary, they expressly prohibit the admission of any law, other than that laid down in the Pentateuch (Deut. iv. 2 and xii. 32)—

לֹא תִסְפוּ עַל־הַדָּבָר אֲשֶׁר אֲנִי מַצְוֶה אֶתְכֶם וְלֹא תִגְרְעוּ  
מִמֶּנּוּ לִשְׁמֹר אֶת־מִצְוֹת יְהוָה אֱלֹהֵיכֶם אֲשֶׁר אֲנִי  
מַצְוֶה אֶתְכֶם :

Ye shall not add unto the word which I command you, neither shall ye diminish ought from it, that ye may keep the commandments of the Lord your God which I command you.

אֵת כָּל־הַדָּבָר אֲשֶׁר אֲנִי מַצְוֶה אֶתְכֶם אֵתוּ תִשְׁמְרוּ  
לִעֲשׂוֹת לֹא־תִסְפֶּה עָלָיו וְלֹא תִגְרַע מִמֶּנּוּ :

What thing soever I command you, observe to do it; thou shalt not add thereto, nor diminish from it.

Were it even conceded that the Written Law contains no allusion at all to the Oral Law, it would not necessarily follow that the latter has no existence. The inference would rather be, that the very circumstance of its being so fully and

so generally known, rendered it unnecessary for the lawgiver to allude to it elsewhere, as there was no occasion, on account of their being so well known, to allude to certain fundamental truths of Judaism; as, for instance, the account to be rendered hereafter by the soul, without the belief in which even the idea of divine revelation is absurd. But the *reductio ad absurdum* is unnecessary; for what allusion or even detail could prove more forcibly the necessity for the existence of the Oral Law, than the otherwise inevitable inconsistencies and contradictions to be met with in the Pentateuch, their solution being possible by means of the Oral Law alone? But on what ground can it be maintained that the Scriptures are destitute of any allusion to the Oral Law? Do we not find (Deut. xvii. 8, 9).—

כי יפלא ממך דבר למשפט בין-דם לדם בין-דין לדין  
ובין נגע לנגע דברי ריבת בשעריך וקמת ועלית אל-  
המקום אשר יבחר יהוה אלהיך בו : ובאת אל-הכהנים  
הלויים ואל-השפט אשר יהיה בימים ההם ודרשת  
והגידו לך את דבר המשפט :

If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates, then shalt thou arise, and get thee up into the place which the Lord thy God shall choose; and thou shalt come unto the priests the Levites, and unto the judge that shall be in those days, and inquire; and they shall shew thee the sentence of judgment.

Now, does not this command presuppose that these superior judges were in possession of some special rules for their guidance, rules unknown to the inferior judges, who sate in all minor places (Deut. xvi. 18), and who had only the insufficient Pentateuch before them? And if not so, to what end would it have been necessary to trouble the litigants to go to *the place which God will choose*, since the ordinary judge of their place might have decided the matter as well, he having the same code of laws before him? It cannot be said, that in the present case there is an indication of a species of appeal to a higher tribunal, which the Almighty allows to litigants dissatisfied with the sentence of the ordinary judges. This cannot be;

the context defines clearly, that the question is of cases *too hard* for the ordinary judges: that is, cases for which the law has not provided, or for which the law is dark and indefinite.

In Nehemiah viii., we find that Ezra read the law to the whole congregation, after which, certain persons had to make it understood by the people. With reference to those persons, we read in ver. 8—

ויקראו בספר בתורת האלהים מפרש ושום שכל ויבינו  
במקרא :

So they read in the book in the law of God distinctly, [*explained*, erroneously rendered *distinctly*] and gave the sense, and caused them to understand the reading.

Hence it is evident from the verse quoted, that something was superadded to the reading of the Law, in order to make it intelligible to the people. Now it cannot be said, that what was so superadded, was merely a translation of the original Hebrew into the jargon then spoken by the people (Nehem. xiii. 24). For, if this had been the meaning of the passage, the word employed would not have been *מפרש* (explained), but *מתרגם* (translated or interpreted), the exact expression used by the contemporaneous Ezra (iv. 7). We must therefore infer that the expressions "*explained*," and "*gave the sense*," allude not to mere translation, but to some explanation or illustration. Hence it is evident, that at this time there existed some recognised and established means of explaining (reconciling apparent inconsistencies and contradictions), without which the law was (to the people) unintelligible. And this being the case, must not these men have received this recognised and established method of explanation, &c. from their predecessors up to the time when *הואיל משה באר את-התורה* "Moses began to explain the Law" (Deut. i. 5)? And, is it not equally inevitable that they must have transmitted it to their successors, from whom, if it did not descend to the compilers of the Talmud, of what use was it?

From what has been said, it might be anticipated that the verse (Deut. iv. 1, 2.), quoted by the antagonists of the Talmud

as disproving the existence of an Oral Law, cannot be fairly said to do so. Let us critically examine the context of that passage in connexion with the preceding verse.

ועתה ישראל שמע אל-החקים ואל-המשפטים אשר  
 אנכי מלמד אתכם לעשות למען תחיו ובאתם  
 וירשתם את-הארץ אשר יהוה אלהי אבותיכם נתן לכם :  
 לא תספו על-הדבר אשר אנכי מצוה אתכם ולא תגרעו  
 ממנו לשמר את-מצות יהוה אלהיכם אשר אנכי מצוה  
 אתכם :

Now therefore hearken, O Israel, unto the statutes and unto the judgments which I teach you, for to do them, that ye may live, and go in and possess the land which the Lord God of your fathers giveth you. Ye shall not add unto the word which I command you, neither shall ye diminish ought from it, that ye may keep the commandments of the Lord your God which I command you.

Where is there a single word, either expressed or understood, which might warrant the doctrine that the Laws of which Moses speaks here are exclusively contained in the Pentateuch? To support such a hypothesis, there must have been after the last sentence, *which I command you*, the words, *in this book*. In the absence of such a restrictive clause, it may be maintained that he commanded the Israelites to keep the statutes of God, whether contained in the Written or in the Oral Law.

That, notwithstanding this prohibition of additional religious obligations, some power of enjoining them under special circumstances has nevertheless existed, may be proved by reference to Zech. viii. 19—

כה-אמר יהוה צבאות צום הרביעי, וצום החמישי וצום  
 השביעי וצום העשירי יהיה לבית-יהודה לששון  
 ולשמחה ולמעדים טובים :

Thus said the Lord of hosts ; the fast of the fourth month and the fast of the fifth, and the fast of the seventh, and the fast of the tenth, shall be to the house of Judah joy and gladness, and cheerful feasts.

Now, these fasts are nowhere enacted in the Pentateuch,



nor could they have been enacted by Moses, since they refer to circumstances connected with the destruction of the first temple. Yet the fast of the fifth month has been regarded as a sacred duty, concerning which, a special appeal was made to the Almighty (ibid. vii. 2—4). According to the views of the opponents of the Oral Law, it must be maintained that those who imposed these fasts, transgressed the law which prohibits the imposition of any new religious obligations. And if thus, why did not the reply of the Almighty express His reprobation of this addition to His Law? By a similar reasoning, it might be proved that Mordecai, who imposed on the Jews the festival of Purim, and the fast of Esther (Esther ix. 20, 21), as well as the Israelites, who pledged themselves to keep them (ibid. 27), were transgressors of the Law, and that it is our duty to abolish these anniversary obligations.

It is needless here to multiply instances wherein the scriptures appear to contain allusions to circumstantial, complementary, or explanatory points of revelation, not *written* in the Pentateuch. We will therefore touch but lightly on two or three other points, in addition to those already quoted, such as the criminality of dealing even in provisions, and the illegality of carrying burdens on the Sabbath—both allusions in the Written Law to laws not written.

(Deut. iv. 44, 45.) Here, in *addition* to the *Law* which he *set before* palpably, there were the testimonies, statutes, and judgments which he *merely spake*.

(Deut. xii. 21.) Here, in reference to the slaughter of the herds and flocks, it says, כֹּאשֶׁר צִוִּיתִיךָ, *As I have commanded thee*. Where is this command in the *Scripture*?

(Hosea viii. 12.) אֶכְתֹּב לוֹ רַבִּי תוֹרָתִי “*I have written for him the greater parts of my law.*” רַבִּי is falsely rendered in the authorised version, *great things*.

Was it not about these less obvious portions of revelation concerning which David so ardently implored? (Ps. cxix. 18, 19).

It remains now to consider the charge, that the Rabbins adduced no evidence but their own in their own favour, and

that the evidence given by men in their own cause is invalid. But it is by no means true that the evidence given by the Talmudists was in their own cause. Did they not carefully separate that which was of divine origin from their own dicta, lest the latter might be mistaken for the former? Did they not, as often as a statement made no part of the divine code, append the name of its author? or, if the authority was not so expressly declared, did they not always so state the case, that misconception was almost impossible? \* As for the Talmudists themselves, no one will deny that they have made many enactments of their own; and the question has been raised, whether they were authorised to do so, and how far these enactments were binding on the nation; but these are questions which lie beyond the pale of the present enquiry. The instances quoted in the illustrative note exhibit sufficient warrant: and it is sufficient here to have proved, that except in such cases, the evidence of the Rabbins is not offered in favour of themselves, but for the divinity of the Oral Law.

*Objection 4.*—"That the recognition of the Talmud as authority cannot be allowed, even on the plea of an influence beneficial to Judaism; because it is the Talmudical precepts which have degraded Jews and Judaism so much, and which have done, and still do mischief to the Jews, in having created, and in still maintaining, these prejudices on the part of Christians towards them, the sad effects of which are still so deeply felt "

The refutation of the foregoing objections may be brought to bear upon this last objection also; for what influence can Jews concede to the assertions of those beyond the pale of Judaism, and that too upon matters of the utmost importance

\* Instances in proof of this scrupulousness may be found in almost every page of the Talmud; to save the necessity of seeking them, the following Mishnahs may at once be pointed out: שביעית the first Mishnah of the fourth Perek; *ibid.*—the last Mishnah of the fifth Perek; *ibid.*—the third Mishnah of the tenth Perek; סטה fourteenth Mishnah of the ninth Perek.

to their religious existence? In recognising such an influence the Jews might be led to reject the Scriptures too; for highly cultivated nations, if not a whole civilised world, have entertained opinions not less inimical to the Scriptures than many have entertained against the Talmud. The judgment passed by Greek and Roman authors on Jews, Judaism, and their sacred books, are too well known to require quotation. But still not only do the Jews, but even the Christians, revere the Bible, despite the adverse testimony of the same writers, in whom, notwithstanding, they place implicit credence on all other subjects which they treated. This apparent anomaly is at once explained away by the consideration, that these ancient Pagans were inimical to the Jews, and disposed to be biassed even in their report of what they could comprehend. As to the Scriptures, if they knew them at all, they were unprepared for their investigation; the little they did investigate, they misunderstood, and misrepresented. But their misrepresentations have not produced the rejection of the Bible.

Even so it is with the Talmud, to which its assailants stand in the same relation as the ancients to the Scriptures.

It is altogether a distinct question, whether the Talmud has exercised an influence beneficial to the Jews or not. Supposing beneficial influence to have reference to a religious or moral, and not to a political, state, we will submit the assertion to a closer examination. In order to render this influence more obvious, we will hypotheticate, for a moment, the Jews in their existing state, but without the Talmud and the Rabbinical decisions which have grown out of the Talmud. Let us see what, in this case, would have become of the Jews and Judaism. It is admitted by all, that an important section of the enactments in the Pentateuch refer to circumstances adapted to Palestine when in possession of the Jewish nation. Let us now fancy that a Jew in Russia (a country in which the majority of the European Jews are located) would read the Scriptures, as we presupposed, without the aid of any Talmudical or Rabbinical book. Let him be a righteous man,

with pious feelings, determined to fulfil the law in all its particulars as far as practicable. Let us think him a man of talent, having made progress in various sciences, as logic, Hebrew grammar, exegesis, history of the Jews, their antiquities, the geography of Palestine and neighbouring countries; in short, furnished with all those auxiliary attainments necessary to a successful investigation of the Scriptures. He would read the laws concerning the Sabbath (Exod. xx. 10), "But the seventh day is the sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates;" he would find that a person who had collected sticks on a Sabbath (Numb. xv. 32), and consequently done a very light work, was punished with death; he would read in Jeremiah (xvii. 22), that the carrying of any burthen on Sabbath was prohibited; he would find in Nehemiah (x. 32) that even to buy the necessaries of life, as-for instance, victuals, on Sabbath is unlawful; he would read (Exod. xxxix. 3), "You shall kindle no fire throughout your habitations on the Sabbath-day;" nay, he would find (Exod. xvi. 29), "Let no man go out of his place on the seventh day."

Putting these particulars into one whole, this man would say, "The Almighty has enjoined very severe laws concerning the Sabbath. It is true my climate is very cold, and it is very hard for me almost to die with cold on the Sabbath, and not even to go to my Christian neighbour to warm myself (Exod. xvi. 24), or to employ my Christian servant to provide me with warm food (Exod. xx. 10). But as the Almighty has commanded it, and since these commands are obligatory for all times and all places, I must submit whatever be the consequence."

He would further read (Levit. xxiii. 42), "Ye shall dwell in booths seven days; all that are Israelites born shall dwell in booths." Then he would say, "It is certainly very unpleasant and very injurious to my health to dwell seven days in booths, in such a rough climate, during the inclement month of October, and to expose myself there to all the vicissi-

tudes of the weather ; still, that being the express command of God, and not being restricted to any particular locality, I must obey." He would then read (Numb. xv. 38), "Speak unto the children of Israel, and bid them that they make them fringes in the borders of their garments throughout their generations, and that they put upon the fringe of the borders a ribband of blue." He would say, "It is true I live now in a nation in which such fringes are not all fashionable ; I expose myself, by adherence to this command, to ridicule and even insult. It would be much better for me could I accommodate myself to the fashion of the people among whom I live, on whom I depend, from whom I get my livelihood, and who legislate for me ; yet, as the Almighty has ordered it, and as its fulfilment does not depend on considerations of locality, I must submit." The brother of this man dies, leaving a widow without children : reading then (Deut. xxv. 5), "If brethren dwell together, and one of them die and have no child, the wife of the dead shall not marry without unto a stranger ; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother." He would say, "It is true I am already married. I love my wife, and I know that by bringing one more into my house I disturb the peace of my family ; I shall also violate the law of my country : but as I see that it is the pleasure of God that I marry also my sister-in-law, I shall disregard all further considerations, and comply." Having a large family, the man has, according to the custom of his country, the bread baked in his own house. Now it happens that, just at the time when his supply is exhausted, and the oven has been heated to prepare a new batch, one of the creeping things mentioned in Levit. xi. 29, 30, falls in the state of death upon the oven. The pious man having read (Levit. xi. 35), "And every thing whereon any part of their carcase falleth shall be unclean ; whether it be oven, or ranges for pots, they shall be broken down : for they are unclean, and shall be unclean unto you." He reflects on the expense of building a

new oven, and the time he will be without one meanwhile. He further says, "During this time, my family must undergo great privations, nay, must suffer hunger, our chief food being bread; I am less able to remedy this evil, because I cannot borrow meanwhile bread from my non-Israelite neighbours, for they prepare it in a manner which makes it unlawful to be eaten by Jews. Nor can I borrow it from a Jew, I being the only one of my nation in this place; yet, as the Almighty has expressly commanded it, my duty is to obey." He would further read (Deut. xvi. 9) with reference to the Feast of Weeks, "Seven weeks shalt thou number unto thee: begin to number the seven weeks from such time as thou beginnest to put the sickle to the corn;" and in Levit. xxiii. 15—17, "And ye shall count unto you from the morrow after the Sabbath (on Passover), from the day that ye brought the sheaf of the wave offering; seven sabbaths shall be complete; and ye shall offer a new meat offering unto the Lord; ye shall bring out of your habitation two wave loaves—they are the first fruits unto the Lord." Then he would say, "This law refers to Palestine, where the harvest begins in April, but as I live in a climate in which this does not take place at all at this period of the year, I must set this command in the number of those from which I am dispensed by the destruction of the temple."

Let us now think this man dead, and his son occupying his place, not less upright and learned than his father, and moreover cognizant of the losses, sufferings, and misfortunes incurred by his father through a strict adherence to religious precepts. This new comer would, under the circumstances, make these reflections: "My father was disabled by his piety from fulfilling many duties not less sacred than those discharged by him. He ruined his health and the health of his family, he behaved unkindly towards my mother, he exposed us all to severe privations, he frequently neglected his occupations, and incurred thereby heavy losses; he violated the laws of the country, and was subjected to heavy penalties. It

cannot be the purpose of the law which is so wise (Deut. iv. 6), and which is destined to induce content (וְחַי בְּרָהֶם), to put us in a state of isolation, and to set us at war with all our neighbours, to condemn us to injure those whose protectors we are destined to be, and whom we must love. There must, therefore, have been something defective in the manner in which my father interpreted the law; I think he did not sufficiently investigate into the objects of the law, and did not consult our present circumstances. My father did not consider that the Sabbath and the Feast of Tabernacles were enacted for our nation when they lived in a very mild climate, where they could very well for one day dispense with fire, and where they could agreeably live in the month of October seven days in booths. But it cannot have been at all the will of the Almighty to let us perish here with cold. I will therefore avoid all such inconveniences. Nor did my father well reflect upon the nature of the statute which he thought bound him to marry his sister-in-law: for had he sufficiently reflected he would have discerned the reason of the enactment, and that it does not apply to our present circumstances at all. He would have perceived that the law was given in order to prevent the alienation of property from one tribe to the other" (Numb. xxxvi. 8).—By similar arguments, a great many statutes will appear no longer obligatory upon him, but still he will observe the fundamental laws of Judaism. Let us consider even this man dead, and the grandson of the first to appear next upon the stage. This man, treading in the footsteps of his father, would reason thus, "My father was right in his reasonings, but he stopped too short, he did not extend his investigations far enough. Wherefore did he adhere so strictly to the law of circumcision, whilst he disregarded so many other laws, the objects to be accomplished by which have no reference to our present state? Did not the command of circumcision also originate in some local precaution of the East, a precaution entirely superfluous in my country? For, have I not read a very learned and ingenious dissertation on circumcision, in

which it is proved that this operation in the East prevents certain inconveniences and diseases, whilst it may be productive of great mischief when practised in my country? I see no reason why I should regard it." As for the Sabbath, he would reason thus, "I know very well that I do not observe the Sabbath as it is prescribed. I have made something of it which the Almighty did not at all mean. Now knowing that I do not fulfil the will of God, would it not be better to transfer it to another day, in which it would occasion me less inconvenience, and wherein I should be exposed to less temptation to violate it; knowing that the main objects of the Sabbath are to abstain from manual labour, and to devote the day to self-improvement, I could undertake all this more advantageously on Sunday than on a Sabbath, when worldly concerns intrude despite myself."

Sabbath and circumcision, two pillars of Judaism, fall. By an analogous mode of reasoning, all laws concerning eating and drinking might be set aside.

Let us now think this man dead in his turn, and the fourth generation to have succeeded him. This new comer would say, "I am, in fact, no Jew at all; I keep merely as much of the law as suits me; I have a religion of my own. Now, why do I continue the name of Jew when I am none, and wherefore deprive myself by false professions of so many privileges and rights, from the enjoyment of which Jews are excluded? Why become a martyr of an idea that does not all animate me? I will renounce so degrading a title:"—he embraces the religion of the state.

Every one who knows the Scriptures will be aware that the "rationalising" of the Russian Jew might have been applied to a great many other obligations, for similar ends. We have likewise conceded an undue advantage, in supposing all these reasoners to be learned, accomplished, honest-minded inquirers, conscientiously disposed to carry out their convictions of duty: such will seldom be true of one individual, and can never be true of the mass. It will inevitably follow from a



concession to every individual of the right to explain the law for himself, without regard to his moral character, religious feelings, mental capabilities, and preparatory studies, that this would be to open the door to every variety of explanation dictated by corrupt propensities, superstitions, ignorance, immature judgment, and reckless presumption; and that Judaism would, by such independence of action, be parcelled out into as many creeds as there are individuals. We have supposed a case in Russia; but the Jews living in other climates, and under other influences (as, for instance, in Turkey), would, in the assumption of the same latitude, contrive for themselves other religious accommodations convenient to their peculiar circumstances: and whilst, at home, religion crumbles into petty fractions, even the large bodies of the Jews abroad could not recognise any foreigner as a Jew, differing, as they must, so widely in their views and practices.—Now, if the Talmud, and the Rabbinism which has grown out of it, had no other claim upon Jews and Judaism, it has averted from them the above calamities; that alone would be sufficient to ensure to the Talmudists and Rabbies our everlasting gratitude.

But the Talmud possesses other claims to our gratitude.

The historical accounts contained in the Talmud, fill a chasm in the history of the Jews and Judaism, for which we might, else, in vain seek the bridge. The Talmud, containing the literature of the Jews, and alluding to so many sciences, and requiring, for its understanding, several preparatory sciences and other acquirements, set an example and excited the Jews of the middle ages to literary pursuits, and thus gave rise to numbers of works, the variety and ingenuity of which extort, not unfrequently, marks of acknowledgment even from the bitterest enemies of Judaism, and prevented the Jews from falling into the same ignorance which prevailed through centuries among the European Christians. To the discipline of Talmudic study, requiring, as it does, such acuteness of perception, and such subtlety of reasoning, may be attributed the success with which the Jews

have, in all ages, been enabled to extricate themselves from the snares and pitfalls which might else have been their destruction. Moreover, in those unhappy times when the Jews were compelled to live secluded from the rest of mankind, their spirit would have become entirely torpid for want of exercise, had the Talmud not kept alive their faculties, by offering to them so vast a field of mental exercise. The Talmud was then for them what the wind is for the sea, without which, the waves would present no more than a stagnant mass of putrefaction. Lastly, by rendering the Jews a literary nation, and by having thus continually sharpened and exercised their mental faculties, the Talmud made the possibility (nay, accounted for the fact), that, in much less than a century, during which the barriers have been struck down which excluded the Jews from the remainder of European society, they have exhibited a flexibility of intellect, which, both in art and science, produced so many great minds, as to exceed by far all expectation. If this be rightly understood, we can easily account why the Talmud has been so frequently attacked, especially by such as desired to convert the Jews, and, in other words, wherefore "the Talmud has created and still maintains so many prejudices against the Jews." For these persons know very well that the Talmud and Rabbinism are the ramparts of Judaism; they expect that the fall of Rabbinism must soon be succeeded by that of Judaism. Is it then to be wondered at that they direct their whole artillery against those ramparts? These men know very well that the written Law cannot exist of itself, and they reason therefore justly, that if the Talmud be rejected as complementary of the written Law, then the path is cleared for a renunciation of Judaism.

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The author having fairly stated the objections urged against the divine origin of the Oral Law, and presented the arguments and evidence which can be adduced in defence of that position, deems all peroration unnecessary, and leaves it to the reader to draw the line, and strike the balance.

\* \* The translations of the Scripture texts are taken from the English authorised version, which has been departed from, only where the false rendering was obvious, and might have interfered with the argument.